DRAFT MEETING MINUTES
WATER POLLUTION CONTROL ADVISORY COUNCIL
Friday, June 26, 2015
10:00 AM – 1:00 PM
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Council Members Present:
Stevie Neuman
Earl Salley
Karen Bucklin Sanchez
Trevor Selch
Keith Smith
Dude Tyler

Council Members Absent:
Barbara Chillcott
Mack Cole
Mitchell Leu
Michael Wendland
Kathleen Williams (Zach Brown substitute by phone)

Montana Department of Environmental Quality Staff Members Present:
Dana David
Jon Kenning
Erik Makus
Sarah Norman
Michael Pipp
Amy Steinmetz
Eric Urban

Guests/Public Present:
Julie DalSoglio
Mark Fix
Jason Gildea
Art Hayes, Jr.
Derf Johnson
Beth Kaeding
Colin Lauderdale
Vicki Marquis
Steve Muggli
Terry Punt
Dave Simpson
Ella Smith
Chris Stoneback

CALL TO ORDER

Chairperson Trevor Selch called the meeting to order at 10:02 a.m.

APPROVAL OF AGENDA

Mr. Dude Tyler moved to approve the agenda as written; Mr. Earl Salley seconded the motion. There was no opposition; the motion carried.

APPROVAL OF MINUTES

Ms. Karen Bucklin Sanchez moved to approve the May 8, 2015, meeting minutes as written; Mr. Tyler seconded the motion. There was no opposition; the motion carried.

ACTION ITEMS

Site Specific EC/SAR Criteria for Otter Creek –

Ms. Amy Steinmetz began her presentation with a brief overview and a definition of electrical conductivity (EC). She explained that, in Montana rule, the definitions of EC and specific conductance (SC) match and so EC, SC, and salinity would be used interchangeably during the presentation. She then defined sodium adsorption ratio (SAR) as the ratio of sodium to calcium and magnesium.

The higher the EC is in the soil, the tighter the water holds to the soil, which Ms. Steinmetz said can cause problems for irrigated agriculture. A high SAR can result in the loss of soil structure. When clean water is applied, the sodium is rinsed out of the soil and it collapses, creating a hard crust that water cannot easily permeate.

Ms. Steinmetz then described the history of industry in the Tongue River watershed. Coalbed methane extraction took off in the area in the late 1990s and early 2000s. The two products of this extraction are coalbed methane and water. What is being done with the water raised concern with agricultural irrigators. Ms. Steinmetz said that the Department of Environmental Quality (DEQ) responded by creating numeric criteria for EC and SAR. Prior to 2002, the entire state was under narrative standards for EC and SAR but, to protect this watershed, DEQ came up with criteria for the mainstems, as well as a number for EC and SAR for all tributaries. They recognized the variability in the waterbodies, and set numbers conservatively to protect more sensitive waters. Ms. Steinmetz described the factors considered in establishing tributary criteria. In 2002 rulemaking, DEQ said that if the natural condition is higher than the criteria then natural become the criteria, but the agency did not specify how this would occur.

Otter Creek is one of the watersheds where EC and SAR naturally exceed the criteria. An assessment showed that Otter Creek was impaired for EC and SAR and, as a result, a total maximum daily load (TMDL) would be necessary. The priority of the completion of a TMDL may be elevated by several factors, such as a pending permit application. As part of the TMDL process, the department created a model illustrating the EC and SAR levels in Otter Creek resulting from natural and anthropogenic factors. The model showed no significant anthropogenic sources, and this was then deemed a standards issue.

Ms. Steinmetz discussed some of the ways in which Otter Creek differs from other tributaries to the Tongue River. She explained that these differences are the reason the creek does not fit well into estimates that were set for surrounding tributaries. Ms. Steinmetz then highlighted some key SC and SAR Otter Creek data.

Turning to rule, Ms. Steinmetz explained that Montana Code Annotated 75-5-306 states that it is not necessary to treat wastes to a purer than natural condition of the receiving stream. Also, Senate Bill 325 stated that standards purer than natural cannot be used in an assessment. Ms. Steinmetz gave an overview of how standards are used, explaining that they are part of a process. Then Ms. Steinmetz

discussed the rules for site specific criteria, specifically Code of Federal Regulations 131.11(b)(1)(ii) and 131.5(a)(4). She also mentioned that site specific criteria must go through the formal adoption process and are subject to a triennial review, just like other water quality standards. Ms. Steinmetz gave examples of states with site specific criteria already in place.

Ms. Steinmetz then looked at the use class of Otter Creek and explained that Otter Creek is designated as a C-3 classified waterbody. The definition of this classification is listed in 17.30.629. Ms. Steinmetz said that site specific criteria based on natural are protective of designated uses because they maintain the condition under which the use has existed.

Ms. Steinmetz then discussed the proposed standards. Looking at the proposed rule, Ms. Steinmetz explained that the first part of the rule would apply to Otter Creek, but it could be an area for housing other site specific criteria based on natural if these were adopted for other areas as well. She then explained that there are certain sections of the proposed rule that apply only in the permitting process and assessments, and that that there are sections that apply solely to assessments. Next, Ms. Steinmetz explained that duration, magnitude, and frequency are components of all numeric water quality standards in Montana. Moving to the statistical analysis of the natural data, Ms. Steinmetz discussed the 80th percentile selection using examples with ten data points. She said that, in terms of frequency, on one out of every two years the data would be expected to be above or below the 80th percentile value.

Wrapping up her presentation, Ms. Steinmetz discussed the topics addressed in the implementation guidance. She said that additional applications would be added to the guidance, but that pending applications are being addressed first. Ms. Steinmetz then talked about statistical analysis and confidence intervals. She explained that confidence intervals are the range of values calculated using statistics on a dataset, and they designate lower and upper confidence limits. The confidence interval specifies confidence in the true value being below the criterion. Ms. Steinmetz then showed couple of example permitting scenarios, one for continuous and one for intermittent discharges. The Otter Creek Mine represented the scenario for intermittent discharges. Ms. Steinmetz added that Otter Creek permits may include concentration and load limits.

Mr. Keith Smith asked Ms. Steinmetz to explain the relationship between implementation and loading. Ms. Steinmetz said that load is calculated by multiplying concentration by flow. Load, but not flow, can be controlled in permits. Mr. Smith asked if the mine would discharge only when there was high flow. Ms. Steinmetz replied that this was correct.

Chairperson Selch asked if there was a change in the proposed criteria, as some of the numbers looked different than those brought to the Water Pollution Control Advisory Council (WPCAC) during the February meeting. Ms. Steinmetz replied that they had just rounded the numbers, but that there was not new data included.

Ms. Bucklin Sanchez said that irrigation occurs when flow is high and concentrations are low. The permit cannot control flow, but it can control load. So, Ms. Bucklin Sanchez asked if the rationale was that if flow is coming from a discharger, it will be at a lower concentration to balance load. Ms. Steinmetz replied that it is the intent to balance load. She added that during a storm event, there may be less control, but there is also more dilution. Ms. Bucklin Sanchez asked if dischargers will be monitoring continuously. Ms. Steinmetz answered that if the mine discharges intermittently, they will be required to monitor intermittently when the discharge occurs.

Mr. Smith asked if there will be continuous monitoring where Otter Creek flows into the Tongue River. Ms. Steinmetz said that there would be continuous monitoring through the United States Geological Survey (USGS), but it would not be required for standards or for the permittee. Permit limits would be written to make sure that the quality of the water entering the Tongue River is not altered.

Public Presentations –
Mr. Art Hayes Jr., of the Tongue River Water Users Association, gave a presentation on the Tongue River Dam. Originally built in 1938, the dam is operated and maintained by the Tongue River Water Users Association. In May 1978, twelve inches of rain fell within five days in the area. The resulting flood nearly took out the dam. The dam was declared a high hazard dam and was operated as such.

In 1973, the state settled with the Northern Cheyenne Federal Reserve water rights and this allowed funds for improvements and expansion of the dam to obtain an additional 20,000 acre feet of new storage. The dam now has two large spillways. To get funding through Congress, the Tongue River Water Users made a five million dollar commitment to the project, even though they did not get any additional storage. The 20,000 acre feet of new storage went to the Northern Cheyenne.

The work was completed in 1999, which is when coalbed methane began taking off in Montana. To get additional water, the dam stores water through fall and into winter. Discharges above the dam include those from Decker Coal. One of the coalbed methane permits allowed for 17,000,000 tons of salt to be discharged into the river per year. The years 2001, 2002, 2004, and 2006 were water short years on the Tongue. In 2006, Montana filed a lawsuit against Wyoming for access to water from the Yellowstone compact.

In February of this year, the snowpack had been disappearing with high temperatures. On April 10, Montana made a call on Wyoming saying that post-1950 [water right] lands could not be irrigated until the Tongue River Reservoir was filled.

During the trial, the minimum flow of the Tongue was established at 75 cubic feet per second (cfs). They set the gate at 78 cfs, which was as close as possible to the requirement. A rain event raised this an additional 23 cfs at Miles City. Wyoming noticed and sent the information to Tim Davis at DNRC.

Electrical conductivity of the Tongue is 1,100 – 1,200 µs/cm this year at Brandenburg. Mr. Hayes said that people must have high quality water for irrigation. There is no guarantee of flow. There may be long-term effects of saline discharges on the Tongue River. The coalbed methane industry's disposal of water has become a major problem. Disposal and storage ponds have been created to evaporate water from mining in Montana, leaving the salts behind on the surface. In Wyoming, much of the water was land applied. The coalbed methane industry is nearly gone from the area, but the salt still remains on the ground's surface and is being picked up by rain and snow.

Mr. Hayes said that they are facing changes that they have never seen before. He described some examples. The water users are concerned about the effect of adding salt to the system. Irrigation with saline water ruins soils. Mr. Hayes stated that when Decker Coal started discharging both EC and SAR increased.

Mr. Hayes asserted that it is time to look at what is happening on the ground in the Tongue River basin and not at models. He hopes that there will be the same level of concern for what is natural in the Tongue River as for Otter Creek. Mr. Hayes said that he hopes that they can get the Tongue River back

to the 1972 levels. He then showed slides to demonstrate why average flow and permitting is not working in this drainage. He said that flow levels are uncertain, increase in demand for Tongue River water has changed irrigation practices, and water shortages are becoming frequent. There is very little water left for toxic discharge. Mr. Hayes stated that DEQ needs to look at the entire drainage and the long-term effects of saline discharges. Until then, Mr. Hayes asked that WPCAC members say no to changing the existing standards.

Mr. Smith asked where measurements were taken in 1959, 1972, and 2006. Mr. Hayes replied that these were USGS measurements taken for EC and SAR at the mouth of the Tongue River by Miles City. This is downstream of the reservoir. Mr. Smith asked if Mr. Hayes knew what the numbers were at the reservoir. Mr. Hayes responded that they did not have those numbers, but that the SAR of the water coming from Wyoming is usually 300-500. Mr. Hayes described the flow of the Tongue River. Mr. Smith explained that he was curious about the quality of the water in the reservoir as compared to what was coming from the tributaries and mines. Mr. Smith wondered about the salinity in the reservoir and he asked if desalinization was needed prior to releasing the water. Mr. Hayes said that the volume of such an undertaking would be tremendous. Mr. Smith asked if this might be an option for the other tributaries. Mr. Hayes discussed the flow of tributaries and the differences in types of irrigation being used. Mr. Smith asked if the discharges from the mines need to be desalinized. Mr. Hayes replied that this would be nice.

The next presentation was by Terry Punt of the Northern Plains Resource Council. Mr. Punt said that coal seams in the area function as aquifers and their waters are important. Folks on Otter Creek and Hanging Woman do not irrigate with natural waters unless it is a high flow event during which the salinity of the water is diluted. He said that people have been irrigating here for a long time, especially during winter when the flow is high and the ground is frozen so that salts are not picked up and transported by the water.

He showed a picture of Dee Dunning Ranch irrigation on Otter Creek displaying the diversion where overflow flood irrigation occurs. This water is controlled by a headgate, but there is limited control when the water is high. He then showed the Ted Fletcher Ranch irrigation system and explained that this is a similar system that only works when flow is high. Mr. Punt said that headgates are nice for controlling the quality of the water used on the fields when possible.

Mr. Punt said that most of the irrigation is taking place during the winter months when DEQ does not have data. He then showed photos of his property on Hanging Woman both with and without irrigation to illustrate the importance of water for irrigation. Mr. Punt stated that the USGS data that DEQ is using is from April to November, and it does not cover the main irrigation period when water quality is higher during frozen ground.

Mr. Punt said that the new proposed rule protects averages rather than natural conditions that allow beneficial use. He said that if the mine is constantly discharging, he will not be able to irrigate. He asked how the mine will communicate with irrigators when they are discharging so that irrigators will know not to use the water. Mr. Punt expressed concern that the mine would discharge during times when water was high, which is also when irrigators will be using the water. He said that because DEQ is not collecting data during safe irrigation times, they are not taking this data into their averages. USGS data, with its lack of winter coverage, is not representative of annual averages. Mr. Punt said that because Otter Creek is a small creek that does not transport large amounts of water, changing it may not change the whole watershed system, but even a small change to that creek would greatly affect it. He said that

there is also no way that DEQ can control the water from the mine, because the water would be put into unlined pits that would leach into the ground and be added to the system.

Mr. Punt said that standards need to protect downstream users from the discharge point onward, and they also need to protect the narrow and opportunistic irrigation windows. He asked WPCAC to urge DEQ to revise the rule to protect existing uses.

Next, representing Otter Creek Coal, Ms. Vicki Marquis and Mr. Dave Simpson gave a presentation. Ms. Marquis said that Otter Creek Coal has a pending Montana Pollutant Discharge Elimination System (MPDES) permit to discharge into Otter Creek associated with the proposed Otter Creek Coal mine. Ms. Marquis said that she supports the process moving forward. The standard existing now is not enforceable and is inconsistent with state statute. She said that natural condition is the goal, and now is the time to initiate rulemaking. This triggers a formal public process which brings in larger public participation. Ms. Marquis stated that she did not want to focus on their pending permit. She said that it is appropriate to focus on the science behind the natural condition, and then the permit will comply with that standard.

Ms. Marquis said that Decker and Spring Creek are not Otter Creek Coal. She explained that technologies have changed and that Otter Creek Coal is not a coalbed methane operation, so they will not have continuous discharge. The ponds at the Otter Creek Mine will capture runoff and they anticipate that the released water will be of higher quality than what is in Otter Creek.

Mr. Simpson introduced himself as an independent consultant currently subcontracted to Hydrometrics Incorporated, which is the lead company involved in preparing the permit applications for Otter Creek Coal. He said that with regard to Mr. Punt's presentation, as part of the permit application process, they have been looking at water use and agriculture in the system. He said that Mr. Punt's description of the system is exactly what they have found as well.

Mr. Simpson then discussed the management of water, both surface runoff and groundwater. He said that the permitting team has recognized from the outset that protection of Otter Creek and minimization of increased salt load is the top priority. For management of surface water, ponds are typically used to capture sediment from discharge before it goes downstream. Seventeen ponds are planned to capture surface water in the drainages affected by the mine area. These ponds vary in size from 1 to 45 acre feet. Mr. Simpson noted that these are preliminary numbers because the design plan is still being revised in response to DEQ permit review. The total capacity of those ponds consists of approximately 200 acre feet.

Mr. Salley asked if they were going to line the ponds. Mr. Simpson replied that they are not proposing to line the ponds because the runoff water captured will be fairly high quality water. He said that the mine area comprises 1.7% of the Otter Creek basin. So, he anticipates a one to two percent reduction in flow from direct runoff from rainfall as a result. The water retained in the ponds should be suitable for discharge. He noted that the MPDES permit requires that any discharge meet certain limitations. So, captured water will be tested before it is discharged into Otter Creek. If the water is not meeting limitations, it will be pumped back to internal ponds. Mr. Simpson noted that the ponds are designed primarily to capture sediment, and there will be infiltration from the ponds. If there is a need, the ponds will be lined. They do not expect that this will be necessary, however, as the ponds are holding runoff water. The outer surface water runoff ponds are considered Phase I, and the mine area surface runoff ponds are Phase 2.

Mr. Simpson said that when they open the mine, they anticipate that there will be inflow from the coal seam. Rather than discharging that water, the plan calls for a holding sump for water from the mining activities. They expect the range of that inflow to be at 300-600 gallons per minute over 3 miles of pit. The preliminary design of the central sump is 380 acre feet. The initial pit water is planned go to the sump. Once the pit is developed, then Phase 2 ponds will be created in this mine area to capture the water draining from the active mine area as well as any pit inflow. The pit inflow will be greatest during the early years of the mine. When these ponds are initially created, they will hold mainly pit water. Then, as the mine advances and the pit inflow decreases, the runoff water will increase as the reclaimed areas are established.

Mr. Simpson said that the water quality data discussed by Ms. Steinmetz seems accurate. He added that Otter Creek Coal's baseline studies, from late 2010 through March of this year, indicate SC has an average of 3,829 µs/cm and a range of 3,260-4,990 µs/cm. SAR is 4.6-8.5, with a 5.9 average. For surface water runoff, they estimate the water will have 500 µs/cm SC and less than 1 SAR. The average for the wells in the mine area for SC is 1,570 µs/cm, with an overall average of 2,500 µs/cm for all the wells. SAR is expected to be high at 12-56, with an average of 41 in the wells.

Mr. Salley asked what a 10 year, 24 hour frequency rainfall event meant. Mr. Simpson said that this is the maximum rain that would fall during a 24 hour period in a 10 year frequency. This translates to 2.4 inches at Otter Creek. The engineers use this number, and based on the soil and watershed characteristics, they calculate what the runoff volume will be. Mr. Simpson noted that the volume of the ponds also takes sediment accumulation into account as well runoff volume. He said that they do not expect the ponds to discharge more than once in ten years on average, but it depends on the rainfall event. Mr. Salley asked if this volume includes snowmelt or just rain. Mr. Simpson replied that it includes rainfall events or snowmelt equivalents.

Turning to the topic of SAR, Mr. Simpson said that the Knobloch coal water has a high SAR and is soft water, which is not very good for crops. He explained that even though the SAR of the coal water is high, compared to Otter Creek, the SC is lower. He said that there is a procedure needed for calculation to determine what the final SAR will look like at the mixing of these waters.

In summary, Mr. Simpson said that the primary control will be the seven ponds located within the immediate mine area, which will have a combined capacity of 435 acre feet. Those are designed for a 100 year, 24 hour model, plus the water that will be discharged from the pit.

A large percentage of the water in the ponds will be used for dust control on the haul roads at a minimum of 100,000 gallons per day. This water will be coming from the seven internal ponds collecting water from the pit and from runoff. This water used on the roads will be mainly high SAR Knobloch water. Ms. Stevie Neuman asked if this spread water will infiltrate. Mr. Simpson replied that it will mainly evaporate. There will be infiltration from the outer ponds, however, but they do not expect the water in the outer ponds to have SAR issues. When the box cut is opened, pit inflow will be contained within the box cut and the water will be used for dust control. There is no planned process water discharge. There will be no continuous discharge. The ponds will be overbuilt to prevent the possibility of overflow discharge into Otter Creek. Mr. Simpson said that the importance of keeping the pit water contained is so that it can be managed. They can time any needed discharges to consider effluent limits and protection of downstream uses.

Ms. Neuman asked how many ponds there will be for stormwater runoff. Mr. Simpson said that there will be 17 ponds, but not all the ponds will be built at the same time. The total capacity of the ponds will be 200 acre feet. The reduction in flow will be no more than proportional to the acreage controlled. During snowmelt runoff, there will not likely be a noticeable difference.

Ms. Neuman asked how many more ponds Mr. Simpson anticipated being built. Mr. Simpson responded that there would be a total of 17 ponds built for Tract 2, which is the portion of the mine pending now. There are three Otter Creek tracts planned to be mined in the long-term, but the land will be reclaimed and the ponds will be taken out as they move from one tract to another.

Public Comment –
Follow a ten minute break, public comments began.

Mr. Derf Johnson, of the Montana Environmental Information Center, said that it has been clearly stated that it is DEQ's obligation to create a water quality criteria to protect existing uses. He said that the fact is that the rule package does not accomplish that. The previous rule package, while imperfect, has worked. While the current standards are not enforceable, the new proposal does not protect existing downstream uses. He said that there is a lot of wiggle-room in the rule. He expressed concern with the cumulative impacts in the basin, as emphasized by Mr. Hayes. He said that there are other mines along the Tongue River valley and they have seen a decrease in water quality. The proposed rule is not flexible enough to recognize opportunistic irrigation opportunities. Mr. Johnson asked WPCAC not to support DEQ's proposed rule.

Mr. Mark Fix, rancher and irrigator on the Tongue River, said that he will be affected by any water quality changes that occur in the Otter Creek drainage. He said that it is not right to introduce degradation to this water. He asked DEQ to consider its mission statement. He said that their first priority is to protect the water and not to issue discharge permits that allow degradation to the water. The original standards set for the tributary reflect the natural condition of Otter Creek, not just the worst water than naturally occurs. The state of Montana, in defending the current standards, previously wrote that federal law requires that standards be set to protect the designated uses regardless of ambient water quality. Mr. Fix said that there is no assimilative capacity to add point source discharge to Otter Creek. The 500 µs/cm was selected with the intention of protecting target crop production. Mr. Fix described the effect of changes in Pumpkin Creek, another tributary to the Tongue River, on the water quality in the Tongue. He said that the difference between Pumpkin and Otter Creek is that Pumpkin Creek is natural, but the coal water from Otter Creek is not natural. Mr. Fix said that the SAR of the coal water is higher than the conditions in Otter Creek. He distributed a handout of what is occurring at a USGS gaging station. Mr. Fix said that by changing the standards on Otter Creek, DEQ is jeopardizing the justification that they used to set existing standards. He stated that a 2008 analysis of data from the Tongue River at Miles City showed that while coalbed methane is on a downturn, water quality is not improving. He said that he recently discovered that in many of the former Wyoming ponds, the salt still remains on the ground and is being carried into the Tongue River through tributaries. Mr. Fix said that the draft discharge permit submitted for Otter Creek will increase flow and load into Otter Creek, and into the Tongue River. The permit has yet to be approved by DEQ, and Mr. Fix said that he hopes that DEQ will not allow this discharge to occur. As Otter Creek is currently listed as impaired for salinity, a TMDL is required. If the standard is changed as DEQ is recommending, there will be no TMDL. Without the TMDL, Mr. Fix said that there will not be a record of the salt load in Otter Creek, and there will not be a record of before and after results of the discharges from Otter Creek mining activities. He stated that the TMDL is needed. Tributaries like Otter Creek carry salt into the Tongue, and must be

considered. Looking at Otter Creek without considering the Tongue River will degrade the Tongue. Mr. Fix asked that WPCAC recommend to the Board of Environmental Review (BER) that the current standards remain in place.

Mr. Steve Muggli, a farmer from Miles City, said that he uses water from the Tongue River for irrigation. A decrease in crop production from 2000 to 2010 led to Mr. Muggli seeking an explanation. He contacted an individual from a California salinity lab, who sent people to examine the water quality and soils. Heavy clay soils and highly saline water were determined to be the issue with crop production. Mr. Muggli said that his concern with Otter Creek is what folks would do if the ponds overflowed into Otter Creek. He said that this goes beyond Otter Creek and the Tongue River to the Yellowstone at the border with North Dakota. He explained that the reason this is such a concern is that this part of the state has heavy clay soils, and by adding salt to these soils, crop production could be affected far downstream. He urged considering the economic benefit of the mine to the state versus that of agriculture from the mine site down to the border of North Dakota. Mr. Muggli said that, if anything, standards should be made more stringent. He stated that it is not possible to lower water quality standards without the possibility of negative long-term effects. Mr. Muggli urged WPCAC not to allow the lowering of Otter Creek standards.

Ms. Beth Kaeding, Northern Plains Resource Council member, spoke about the effects of energy development. She said that she has been working on water quality issues in southeastern Montana for many years. She explained that she was involved in trying to set water quality standards on the Tongue, Powder, and Rosebud Rivers back in the early 2000s because folks were noticing that energy development was starting to have effects on the people in this region. She said that every time a project comes up, there seem to be little changes that result. These changes are adding up and affecting overall water quality in the region. This is shaping the perspectives of folks toward these newly proposed changes. Ms. Kaeding said that the mine occupying 1.7% of the land in the Otter Creek watershed will have a huge effect on the folks there because it differs from what has historically occurred in the area. It will impact the knowledge that the people there have accumulated about the place in which they live. She then brought up the topic of natural condition. Ms. Kaeding said that DEQ does not have a lot of data from winter, so using average condition is not representative of natural. Ms. Kaeding said that DEQ needs data from November through April, and that they need to create a rule protecting uses.

Ms. Steinmetz showed data from the USGS gaging station near the mouth of Otter Creek by Ashland. She said that, since 2004, USGS has not collected continuous data from November to March. DEQ does have grab samples from these months though. DEQ separated the information into periods of years for which they have year-round data and years that they just have data from April through November. Running the same statistics didn't yield different results. Chairperson Selch added that DEQ does not have discharge data from USGS during the winter because of the ice accumulation.

Chairperson Selch sought comments and recommendations. Mr. Tyler disclosed that he is a member of the Northern Plains Resource Council. He said that he was also a successful former litigant against DEQ. Mr. Tyler said that he sees a general trend in the direction that things are going, and it is not a positive direction. He moved to forward to BER a recommendation for a rejection of the proposed standards. Mr. Salley seconded the motion.

Ms. Steinmetz sought more advice on what DEQ could do, and how they could improve the proposed rule package. She said that this feedback could come from anyone. On May 18, Ms. Steinmetz sent the draft rule and implementation guidance to 80 people, and only received 3 comments in response. Ms.

Steinmetz said that this is part of the reason that, at this point, they want to start the formal process so that they can get more comments and feedback from a larger audience. In response to a question from Ms. Neuman, Ms. Steinmetz clarified that a motion to encourage BER to reject the proposed standards would not limit DEQ. Chairperson Selch added that Ms. Steinmetz's request for additional feedback from WPCAC members could occur even outside of the motion.

Mr. Smith discussed the topic of winter irrigation. He said that one potential solution protecting users on Otter Creek would be to not allow discharges during the winter when irrigation is occurring. He added that how that would be controlled could potentially be problematic, however. He said that this does not address Tongue River, and he mentioned that he is not sure how much this flow affects the Tongue. He also noted that every little tributary, including Otter Creek, makes a difference to the Tongue River and that investigation of impacts to the Tongue would probably require more research. Mr. Smith said that because 500 µs/cm is not enforceable, an alternative must be developed. He added that limits are being set where the Otter Creek meets the Tongue River, so that the Tongue will not be degraded by the waters from Otter Creek. He reiterated that perhaps prohibiting discharge during certain months would assist the users on Otter Creek above the point where the creek meets the Tongue.

Chairperson Selch said that he is confident in the data and work brought by DEQ. He added that there will be time later to comment on the permit. He shared that he was unsure how to come up with more conservative numbers, and that he was supportive of the proposed rule.

A vote of those in support of the motion to forward to BER a recommendation for a rejection of the proposed standards was held. The motion carried three to two.

Mr. Salley added that he hopes that cooperation improves between the parties involved as far as looking at the various interests represented. He said that he believes that much can be accomplished if all parties work together. Ms. Neuman added that she felt that the proposed rules needed to go a step further, but that she is supportive of DEQ's work.

Agenda Items for Next Meeting –
The next meeting is scheduled for September 11, 2015. Ms. Steinmetz said that, as a briefing item, there will be a presentation on the cleanup process for Bell Creek, as requested by Mr. Salley. They may also discuss the triennial review. Soon, DEQ will be going to BER and opening up all of the standards for triennial review. Suggestions for additional agenda items may be sent to Chairperson Selch or Ms. Steinmetz.

ADJOURN
Chairperson Selch sought a motion to adjourn. Mr. Tyler moved to adjourn; Mr. Salley seconded the motion. The meeting adjourned at 12:41 p.m.

REFERENCED LINKS FOR MEETING MATERIALS
(Sites last updated 6/26/2015)

June 26, 2015 Agenda -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/June26/AGENDA_6-26-15.pdf

Agenda Links:
Minutes from May 8, 2015 -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/May8/5-8-2015DRAFTMinutes.pdf

Draft Implementation Guidance for EC and SAR Site-specific Criteria for Otter Creek -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/June26/DRAFTImplementationGuidance06-26-15.pdf

New Rule -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/June26/NEW_SECTION06-26-15.pdf

Reason for New Rule -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/June26/SRN.pdf

WPCAC Agenda Form -
http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/June26/WPCACAgendaForm6-26.pdf

Submitted by,
Sarah Norman 7/15/2015